(2000) 10 MAD CK 0002

In the Madras High Court

Case No : Writ Appeal No. 1019 of 1991

Commissioner of Income Tax — APPELLANT

Vs

A. Hari Krishnan and Others — RESPONDENT

Date of Decision : 12-10-2000

Acts Referred:
Madras City Tenants Protection Act, 1922 — Section 9(1)

Citation : (2001) 249 ITR 343

Hon'ble Judges : R. Jayasimha Babu, J;A.K. Rajan, J

Bench : Division Bench

Advocate : J. Naresh Kumar, for the Appellant;

Judgement

R. Jayasimha Babu, J.—The question required to be decided in this appeal is whether a court sale is subject to the provisions of Chapter

XX-C of the Income Tax Act, 1961. Chapter XX-C of the Act is intended to protect the interests of the Revenue by preventing evasion of tax in

property dealings.

2. When a sale is effected by the court by way of public auction, the value of the property is determined by the highest bid obtained at such

auction. There is no question of the property being undervalued as the sale is by public auction, and any one interested in the purchase of the

properly, is permitted to come and offer his bid. The sale so effected is further subject to the approval of the court. In the event of the sale being

vitiated on any of the grounds referred to in Order XXI of the Code of Civil Procedure, 1908, the sale is liable to be set aside.

3. The object for which Chapter XX-C was enacted in the Income Tax Act is in no way relatable to the disposal of the property by the court. The

extent of the applicability of the several provisions in that Chapter has to be determined with reference to the object for which those provisions are

introduced. The question of evasion of Income Tax in a court sale by reason of the property being undervalued does not arise. Moreover, the

authorities under the Income Tax Act cannot sit in judgment over the court''s decision in the matter of determination of the price at which the

property should be sold. In the case of Hindustan Petroleum Coloration Ltd. v. Elite Optical Industries [1995] 1 LW 67 it has been held by this

court that when a sale deed is executed pursuant to an order made by the court u/s 9(1) of the Madras City Tenants Protection Act, at the price

determined by the court in accordance with the provisions of the Act, the document is required to be registered by the registering authority without

reference to Chapter XX-C of the Income Tax Act.

4. The learned single judge (see A. Harikrishnan Vs. The Registrar and others, has rightly held that Chapter XX-C of the Act is inapplicable to

court sales. Writ appeal is dismissed.

